

REMARKS

Applicants have carefully considered the December 2, 2005 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 1-16 are pending in this application. In response to the Office Action dated December 2, 2005, claims 1-10 and 12-16 have been amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

The Examiner objected to claims 5 through 16 as improperly dependent upon a previous multiple dependent claim. The Examiner did not examine claims 5 through 16 on the merits. Applicants respectfully request reconsideration and withdrawal of the objection in view of the foregoing claim amendments which address the improper multiple dependency issues raised by the Examiner.

Claims 1 through 4 were rejected under the second paragraph of 35 U.S.C. § 112. In the statement of the rejection the Examiner identified language perceived to render the claimed inventions indefinite and courteously suggested remedial changes. Applicants respectfully request reconsideration and withdrawal of the rejection in view of the foregoing amendments to claims 1 through 3, which address the issues raised by the Examiner under the second paragraph of 35 U.S.C. § 112.

Applicants have further clarified claims 1 through 3 to describe that the electrochemical treatment decomposes organic matter in the water.

In view of the foregoing, Applicants submit that one having ordinary skill in the art would not have difficulty understanding the scope of the presently claimed invention, particularly when reasonably interpreted in light of the supporting specification.

Claims 1 and 4 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Davies in view of Yajima et al, Leech, Nehls et al. and Ciaudelli. In the statement of the rejection the Examiner determined that the pH measurement conducted by Davies would inherently involve an electrochemical technique. The Examiner then concluded that one having ordinary skill in the art would have been motivated to implement a biochemical treatment in view of Nehls et al. and to employ microbes in view of Leech. Applicants respectfully traverse.

Applicants respectfully submit that the Examiner has not established the requisite motivation for sequentially combining the technique of Davies with Nehls et al., as with the present claimed subject matter. *In re Mayne*, 104 F.3d 1339, 41 USPQ2d 1451 (Fed. Cir. 1997); *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Applicants submit that the accidental use of a sunscreen by, as disclosed by Ciaudelli, is an unrealistic approach by the Examiner in an attempt to establish obviousness. Applicants submit that the present invention involves the purposeful addition of ingredients to effect purification not contamination. As such, the applied references fail to disclose or remotely suggest the sequential steps as claimed.

In view of the foregoing, Applicants submit that the Examiner has not made the requisite "clear and particular" factual findings as to any specific understanding or specific technological principle which would have realistically impelled one having ordinary skill in the art to modify the technique disclosed by Davies to arrive at the claimed invention. *Ruiz v. A.B. Chance Co.*,

234 F.3d 654, 57 USPQ2d 1161 (Fed. Cir. 2000); *Ecolchem Inc. v. Southern California Edison Co.*, 222 F.2d 973, 56 USPQ2d 1065 (Fed. Cir. 2000); *In re Kotzaab*, 217 F.3d 1365, 55 USPQ 1313 (Fed. Cir. 2000); *In re Dembiczak*, 175 F.2d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The only apparent motivation is found in Applicants' disclosure, which, of course, can not be properly relied upon by the Examiner to support the ultimate legal conclusion of obviousness under 35 U.S.C. § 103. *Panduit Corp. v. Dennison Mfg. Co.*, 774 F.2d 1082, 227 USPQ 337 (Fed. Cir. 1985). Accordingly, reconsideration and withdrawal of the rejection are solicited.

Claims 2 and 3 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Nehls et al in view of Nakamura et al. In the statement of the rejection the Examiner concluded that one having ordinary skill in the art would have been motivated to combine the biochemical treatment of Nehls et al. with the electrolytic treatment of Nakamura et al. Applicants respectfully traverse.

Applicants submit that the Examiner has failed to establish the requisite fact-based motivation to combine the method of Nehls et al., which is directed to clarifying swimming pools for underwater filming, with the technique of Nakamura et al., which is designed to purge and disinfect water used in air conditioning systems or a waste-gas scrubber. The Examiner's mere identification of claim features in disparate references (swimming pool treatment v. air conditioner treatment) does not establish the requisite realistic motivation to support the ultimate legal conclusion of obviousness under 35 U.S.C. § 103. *Grain Processing Corp. v. American-Maize Products Co.*, 840 F.2d 902, 5 USPQ2d 1788 (Fed. Cir. 1988). Accordingly, the rejection is not legally viable and should be withdrawn.

Applicants further submit that the applied prior art does not disclose the manipulative steps of the claimed invention comprising an initial electrochemical treatment to decompose

**Application No.: 10/823,788**

organic matter and a subsequent biochemical treatment. Thus, even if the applied references are combined as suggested by the Examiner, and Applicants do not agree that a requisite fact-based motivation has been established, the claimed invention would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

Dependent claims 5-16 are free from the applied art in view of dependency from independent claims 1-3, respectively.

With respect to the Examiner's comment beginning on page 5 of the Office action, Applicants are aware of their obligations under 37 C.F.R. 1.56.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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